

SHANNON LISS-RIORDAN, *pro hac vice*
(sliss@llrlaw.com)

ADELAIDE PAGANO, *pro hac vice*
(apagano@llrlaw.com)

LICHTEN & LISS-RIORDAN, P.C.
729 Boylston Street, Suite 2000
Boston, MA 02116
Telephone: (617) 994-5800
Facsimile: (617) 994-5801

MATTHEW CARLSON (SBN 273242)
(mcarlson@carlsonlegalservices.com)
Carlson Legal Services
100 Pine Street, Suite 1250
San Francisco, CA 94111
Telephone: (415) 817-1470

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

HAKAN YUCESOY and ABDI MAHAMMED, individually and on behalf of all others similarly situated,

Plaintiffs.

V.

UBER TECHNOLOGIES, INC., RYAN GRAVES, and TRAVIS KALANICK,

Defendants.

Case No. CV 15-0262 EMC

**ADMINISTRATIVE MOTION TO FILE
SUPPLEMENTAL ARGUMENT AND
DECLARATION IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO
DEFENDANTS' MOTION TO COMPEL
ARBITRATION**

Date: August 6, 2015

| Time: 1:30 pm

Place: Courtroom 5

Judge: Hon. Edward M. Chen

1 Pursuant to Local Rule 7-11 and 7-3(d), Plaintiffs hereby move this Court for an Order
2 permitting them to supplement their Opposition to Defendants' Motion to Compel Arbitration
3 (Doc. 72), with the brief supplemental argument below and the declaration attached here as
4 Exhibit 1. Defendants have stipulated to this filing, provided they are granted a brief extension
5 on their Reply brief to July 8, 2015. See Doc. 75.

6 In support of this Motion, Plaintiffs state that they have become aware of a discrepancy
7 between Defendants' evidence, based upon which they have asserted that Plaintiff Hakan
8 Yucesoy agreed to Uber's Licensing Agreement on September 17, 2013, see Doc. 63 at ¶ 15, and
9 the information supplied by Plaintiff Hakan Yucesoy. After further discussions with their client,
10 Plaintiffs' counsel now seek leave to supplement their earlier Opposition to Defendants' Motion
11 to Compel Arbitration with the attached Second Supplemental Declaration of Hakan Yucesoy
12 (attached as Exhibit 1), in an effort to further clarify Plaintiffs' position – namely, that Hakan
13 Yucesoy stopped driving UberBlack around June 2013 and did not actually accept Uber's
14 licensing agreement in September 2013 as Defendants have argued.

15 In support of their Motion, Plaintiffs' counsel submit that they have acted diligently in
16 conferring with their client and obtaining this declaration while their client is overseas.
17 Furthermore, the parties have agreed that Defendants could have until July 8, 2015, to file their
18 reply memorandum in support of their motion to compel arbitration. Thus, neither the Court nor
19 Defendants will be prejudiced by the admission of this evidence, which only provides further
20 clarification of what Plaintiffs have already set forth in their Opposition to Defendants' Motion.
21 See Doc. 72.

22 **SUPPLEMENTAL ARGUMENT**

23 Should the Court permit it, Plaintiffs hereby submit this Supplement to their Opposition
24 to Defendants' Motion to Compel Arbitration (Doc. 72). In their Motion to Compel Arbitration,
25 Defendants contend that Plaintiff Hakan Yucesoy drove for UberBlack until October 2013 and
26

1 that he accepted Uber's 2013 Licensing Agreement on September 17, 2013. See Doc. 63 at ¶15,
2 19. However, Plaintiff Yucesoy was not in the United States and was no longer driving for Uber
3 at that time. Indeed, he stopped driving in early June 2013, at which time he purchased a ticket
4 to Turkey and left the country. He did not return until early December 2013. See Ex. 1
5 (Supplemental Declaration of Hakan Yucesoy) at ¶ 5; Ex. A. Mr. Yucesoy has now submitted a
6 copy of his travel itinerary and passport stamps, demonstrating that he was out of the country
7 from June to December 2013. See Ex. A to Supplemental Yucesoy Decl. After he returned, he
8 commenced driving for UberX, beginning in January 2014. See Ex. 1 (Supplemental Declaration
9 of Hakan Yucesoy) at ¶ 2;

10 Thus, in addition to all the arguments in their original Opposition, Plaintiffs further
11 oppose Defendants' motion to compel arbitration based on the fact that Plaintiff Yucesoy never
12 actually accepted Uber's Licensing Agreement containing the arbitration clause and was not
13 even in the country, or driving for Uber, at the time that Uber asserts he accepted the agreement.
14 As such, there was never a valid agreement for him to arbitrate his claims. Plaintiffs further note
15 that Uber's means of distributing its Licensing Agreement electronically and of not requiring a
16 signature or other verification as to who accepted it (or whether the Terms and Conditions were
17 viewed by the driver allegedly bound by the agreement) leaves it open to situations such as this,
18 in which a genuine dispute may exist as to whether a given driver ever actually assented to the
19 agreement, or whether someone else assented on the driver's behalf while hacking or utilizing a
20 driver's account without permission. Defendants bear the burden of establishing that a valid
21 agreement to arbitrate exists, InterGen N.V. v. Grina, 344 F.3d 134, 142 (1st Cir.2003), and they
22 have failed to do so here. As such, their Motion to Compel Arbitration must be denied.

1 Respectfully submitted,

2 HAKAN YUCESOY and ABDI MAHAMMED,
3 individually and on behalf of all others similarly
4 situated,

5 By their attorneys,

6 /s/ Shannon Liss-Riordan

7 Shannon Liss-Riordan, *pro hac vice*
8 Adelaide Pagano, *pro hac vice*
9 LICHTEN & LISS-RIORDAN, P.C.
10 729 Boylston Street, Suite 2000
11 Boston, MA 02116
12 (617) 994-5800
13 Email: sliss@llrlaw.com, apagano@llrlaw.com

14 Dated: June 30, 2015

15 **CERTIFICATE OF SERVICE**

16 I hereby certify that a copy of the foregoing document was served by electronic filing on
17 June 30, 2015, on all counsel of record.

18 /s/ Shannon Liss-Riordan

19 Shannon Liss-Riordan, Esq.

1 SHANNON LISS-RIORDAN, *pro hac vice*
2 (sliss@llrlaw.com)
3 ADELAIDE PAGANO, *pro hac vice*
4 (apagano@llrlaw.com)
5 LICHTEN & LISS-RIORDAN, P.C.
6 729 Boylston Street, Suite 2000
Boston, MA 02116
Telephone: (617) 994-5800
Facsimile: (617) 994-5801

7 MATTHEW CARLSON (SBN 273242)
(mcarlson@carlsonlegalservices.com)
8 Carlson Legal Services
9 100 Pine Street, Suite 1250
San Francisco, CA 94111
10 Telephone: (415) 817-1470

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

HAKAN YUCESOY, and ABDI MAHAMMED,
individually and on behalf of all others similarly
situated,

16 | Plaintiffs,

v.
17 UBER TECHNOLOGIES, INC., RYAN
18 GRAVES, and TRAVIS KALANICK,

19 | Defendants.

Case No. CV 15-0262 EMC

**SECOND SUPPLEMENTAL
DECLARATION OF HAKAN YUCESOY IN
SUPPORT OF PLAINTIFFS' OPPOSITION
TO DEFENDANTS' MOTION TO
COMPEL ARBITRATION**

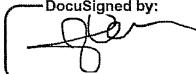
Date: August 6, 2015
Time: 1:30 pm
Place: Courtroom 5
Judge: Hon. Edward M. Chen

1 I, Hakan Yucesoy, hereby declare:

- 2 1. I have personal knowledge of the facts set forth in this declaration and could and would
3 testify competently to them.
- 4 2. I used to drive for Uber and am one of the named lead plaintiffs in this class action. I first
5 started driving UberBlack in Boston in March 2013 until approximately June 2013. I
6 later returned to Boston and began driving UberX in late January 2014 until I was
7 deactivated by Uber around the early summer of 2014.
- 8 3. I do not believe I ever accepted a Licensing Agreement with Uber containing an
9 arbitration clause. I understand Uber distributed this clause to its drivers around the time
10 I stopped driving for UberBlack in June 2013.
- 11 4. I understand that Uber is claiming I agreed to a Licensing Agreement containing an
12 arbitration clause in September 2013. However, I know I did not accept a Licensing
13 Agreement with Uber in September 2013.
- 14 5. The reason I know this is because I was out of the country in September 2013 and was
15 not driving for Uber at that time.
- 16 6. Attached here as Exhibit A is a copy of pages from my passport, showing that I was not
17 in the United States in September 2013.

18
19 I declare under penalty of perjury that the foregoing is true and correct.

20
21 Executed on June 29, 2015, at Antalya, Turkey.

22 By: 
Hakan Yucesoy

ECC950B5F41547F...

Exhibit A

Begin forwarded message:

From: Turkish Airlines <please_do_not_reply@thy.com>
Subject: Turkish Airlines Online Ticket - Information Message
Date: April 4, 2013 at 6:16:07 PM EDT
To: <YUCESOYHAKAN@GMAIL.COM>, <YUCESOYHAKAN@GMAIL.COM>

	ELECTRONIC TICKET	
	<p>Dear HAKAN YUCESOY</p> <p>It's a pleasure to see you among us at Turkish Airlines.</p> <p>This email contains important information about your trip to facilitate your journey. Here, you can find links to your flight information, hotel reservations and car rentals.</p>	
	Reservation Code	<u>RBWRKM</u>
	Process date	<u>05 Apr 2013</u> <u>01:14</u>
	Total Amount	829.50 USD

Itinerary				
Airline/Flight Number	Departure	Arrival	Cabin	Class
 TK8588	02.06.2013 / 20:20 BOSTON/Logan Intl. Airport	03.06.2013 / 09:45 MUNICH/Munich Airport	Economy	W
 TK1630	03.06.2013 / 10:30 MUNICH/Munich Airport	03.06.2013 / 14:05 ISTANBUL/Ataturk Airport	Economy	W
 TK2162	03.06.2013 / 16:00 ISTANBUL/Ataturk Airport	03.06.2013 / 17:05 ANKARA/Esenboga Airport	Economy	Y

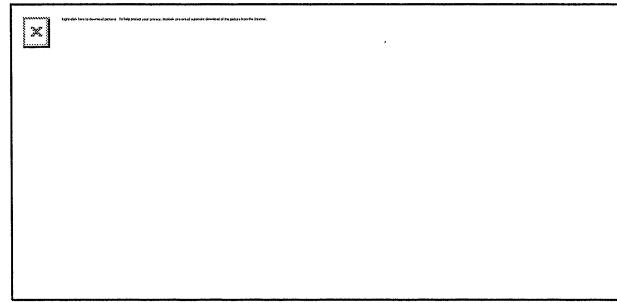
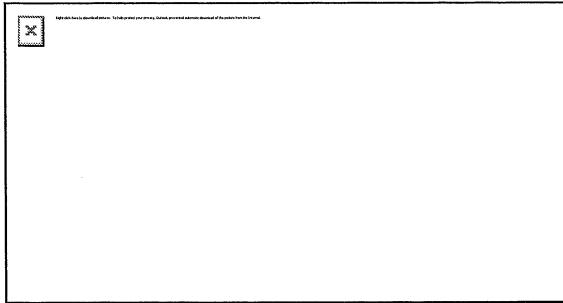
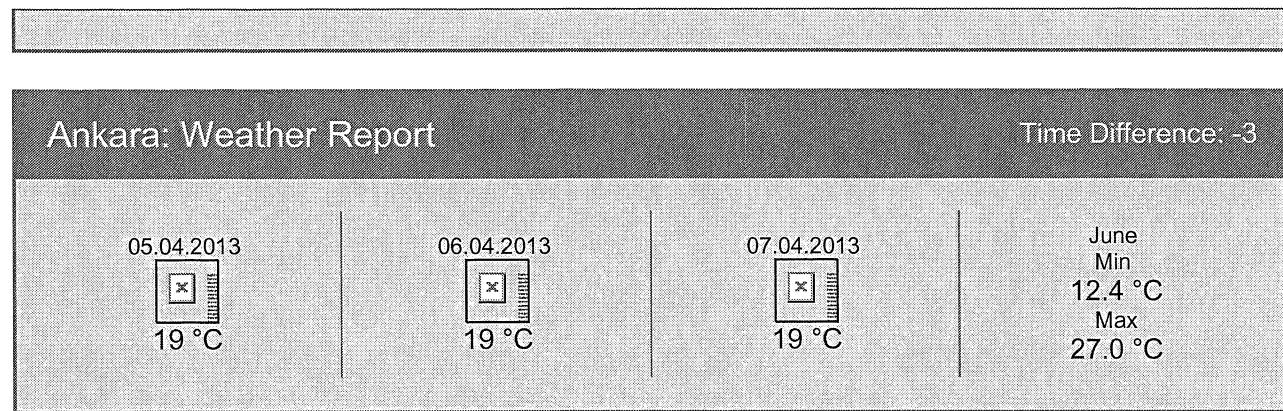
 TK2123	02.12.2013 / 09:00 ANKARA/Esenboga Airport	02.12.2013 / 10:05 ISTANBUL/Ataturk Airport	Economy	Y
 TK1631	02.12.2013 / 11:50 ISTANBUL/Ataturk Airport	02.12.2013 / 13:35 MUNICH/Munich Airport	Economy	W
 TK8587	02.12.2013 / 15:40 MUNICH/Munich Airport	02.12.2013 / 18:25 BOSTON/Logan Intl. Airport	Economy	W
				

Information about the trip

- Your *electronic ticket* was issued
- You may apply to the nearest Turkish Airlines Office to take your electronic invoice document which is accepted as an official invoice by Turkish Law, no later than 7 days after your flight.
- The total amount has been charged to the indicated credit card during the payment.
- Your ticket has been issued as an electronic ticket. You will not receive a paper ticket.

Passenger(s)

	Passenger	Ticket Number	Flight Number	Preferences
	Hakan Yucesoy	2352106909793-94	TK8588	Free Baggage Allowance : 2 Piece
	Hakan Yucesoy	2352106909793-94	TK1630	seat: 10J Free Baggage Allowance : 2 Piece
	Hakan Yucesoy	2352106909793-94	TK2162	Free Baggage Allowance : 2 Piece
	Hakan Yucesoy	2352106909793-94	TK2123	Free Baggage Allowance : 2 Piece
	Hakan Yucesoy	2352106909793-94	TK1631	Free Baggage Allowance : 2 Piece
	Hakan Yucesoy	2352106909793-94	TK8587	Free Baggage Allowance : 2 Piece

**Online Checkin**

For online check-in please click [here](#)

**Reservation**

Click [here](#) to see your reservation information.

**Travel Experience**

Economy class, Comfort class, Business class

**Baggage**

Important information about baggage.

**City Guide**

Must-see places, shopping, dining.

**Office information**

THY Sales Office and Airport contact information

- Credit card used for the payment (if it is a virtual card, please have the related credit card with you) and an identification card (Passport , driving license, personal identity card , marriage certificate) that belongs to the credit card holder must be presented at thy check-in counter. All the passengers within a single booking must apply to check-in counter at the sametime. Individual applications will not be accepted. If the credit card holder is not the passenger, credit card holder must be present with the passenger(s) at the check-in counter with his/her credit card (used for the payment) and his/her valid identification card. (If it is a virtual card, please have the related credit card with you).
- If you do not present the credit card you used for the payment, you will not be accepted to the flight.
- For rebooking,rerouting,cancellation/refund please apply to Turkish Airlines sales offices with the credit card used for the payment (if it is a virtual card, please have the related credit card with you) and a picture identification card (passport , driving license, personal identity card , marriage certificate). Otherwise your request will not be

accepted.

- Please, insert the credit card which you used for the payment for Self Check-in. If the credit card holder is not the passenger and/or if it is a virtual card it is impossible to use Self Check-in.
- Aircraft type may be changed for operational reasons.
- Free baggage allowance of TK direct Flights from/to North America destinations (NYC,WAS,LAX,CHI,YTO) is applied as 2 pcs. Free baggage allowance for America Interline Travels include other carriers is applied as 1 pcs. For Free Baggage Allowance and Excess Baggage Charges details please click [here](#)
- As of 22nd of July 2008, check-in procedures for the USA flights will be completed from International Terminal/Counters D.

For any issues with online reservations, please complete the customer service [form](#) or contact our Call Center.

CALL CENTER FOR
BOSTON
1 800 874 8875
(Weekdays : 09:00-
17:30)-(Closed on
Weekends and Public
Holidays)



↑ Stamp from 3 June 2013